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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/009,087	11/08/2001	Brian Francis Gray	AA432F	5838

27752 7590 02/20/2004

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EXAMINER

HOWARD, SHARON LEE

ART UNIT PAPER NUMBER

1615

DATE MAILED: 02/20/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/009,087

**Applicant(s)**

GRAY ET AL.

**Examiner**

Sharon L. Howard

**Art Unit**

1615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

Claims 1-10 are pending.

### **DETAILED ACTION**

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-10 are rejected under 35 U.S.C. 102(b) as being anticipated by the WO 99/22684 reference.

The WO '684 reference teaches an absorbent article which absorbs body exudates, comprising a liquid pervious topsheet and a liquid impervious backsheet which is joined to the topsheet. The reference teaches that the topsheet is disposed at the body surface and that the backsheet is disposed at the garment surface. The reference also teaches an absorbent core which is located between the topsheet and the backsheet (see page 7, lines 19-35, bridging page 8, lines 1-10 and see Figures 1-4). The reference teaches that the topsheet of the absorbent article has a skin care composition disposed thereon (see page 15, lines 24-25).

The reference anticipates the claims of the instant application.

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Claims 1-10 are rejected under 35 U.S.C. 102(b) as being anticipated by the WO 99/12530 reference.

The WO '530 reference teaches absorbent articles which comprises a topsheet (see page 5, lines 12-35, and page lines 6-17), a backsheet and an absorbent core therebetween, an acquisition zone and a skin care zone is provided with a skin care composition which provides a protective barrier and a skin care benefit. The document discloses that the article comprises regions with greater or less amounts of composition (lower average basis weight zones). The document may also comprise three regions, side panels (flaps), wherein each region may have the skin care composition in adequate amounts (see abstract, page 7, paragraphs 2 and 3, page 19, paragraph 2, page 22, paragraph 2, page 23, lines 3-5, page 26, lines 9-14, page 29, line 4, paragraph 31, paragraph 2, page 32, paragraphs 1 and 3, page 33, paragraph 3, page 34, paragraph 3, see claims 1,5,18-23,25-28).

The reference anticipates the claims of the instant application.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over the WO '684 reference.

The WO '684 reference is discussed above.

The reference does not teach the particular weight percentage of the preferential acquisition zone.

However, the reference teaches that the configuration and construction of the absorbent core may have varying acquisition zones (i.e. lower average density and lower average basis weight zones)(see page 8, lines 26-30), and that the size and absorbent capacity of the absorbent core may be varied to accommodate different uses such as diapers and sanitary napkins to accommodate the wearer.

The expected result would be an absorbent article comprising a topsheet, a backsheet, and absorbent core located therebetween, an acquisition zone and a skin care composition disposed thereon.

It would have been within the skill of the ordinary practitioner at the time the invention was made to use the teachings of the WO '684 reference, with the expectation of achieving an absorbent article comprising a skin care composition which is known in the art for absorbing body exudates as instantly claimed. Therefore, it would have been obvious to claim an absorbent article, comprising a topsheet, a backsheet, and an absorbent core located therebetween, including a skin care composition disposed on the topsheet of the absorbent article.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over the WO '530 reference.

The reference is discussed above.

However, the reference does not teach the particular weight percentage of the acquisition zone.

The WO '530 document discloses that the size may be varied to accommodate the wearer (page 23, lines 1-10). The expected result would be an absorbent article comprising a topsheet, a backsheet, an absorbent core therebetween, an acquisition zone and a skin care zone which is provided with a skin care composition.

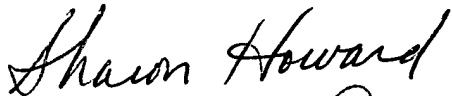
It would have been within the skill of the ordinary practitioner at the time the invention was made to use the teachings of the WO' document, with the expectation of achieving an absorbent article comprising a skin care composition which is known in the art for providing a therapeutic and protective benefit to the skin. One would expect to achieve similar results from the instantly claimed invention. The claims would have been obvious in view of the teachings of WO 99 12530 A.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharon L. Howard whose telephone number is (571) 272-0596. The examiner can normally be reached on 9:00am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman K. Page can be reached on (571) 272-0602. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Sharon Howard  
February 19, 2004



**CARLOS A. AZPURU**  
**PRIMARY EXAMINER**  
**GROUP 1500**